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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,874	06/11/2001	Tony McCormack	41319-904926	2638
23644 7590 01/13/2010 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER				
PATEL, HARESH N				
ART UNIT		PAPER NUMBER		
2454				
NOTIFICATION DATE		DELIVERY MODE		
01/13/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/878,874

Applicant(s)

MCCORMACK ET AL.

Examiner

HARESH N. PATEL

Art Unit

2454

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/HARESH N PATEL/
Primary Examiner, Art Unit 2454

Continuation of 11, does NOT place the application in condition for allowance because: the cited prior arts still render the claims unpatentable and the final rejection dated 8/18/2009 is deemed proper. Also, The specification of the application under prosecution at page 14, states, Any range or device value given herein may be extended or altered without losing the effect sought, as will be apparent to the skilled person for an understanding of the teachings herein. A range of applications are within the scope of the invention. These comprise situations in which it is required to create and send uniform resource identifiers (URIs) that comprise time information or to set up telephone calls automatically at times specified in such URIs, etc.. Since, applicant's claims contain broadly claimed subject matter it clearly reads upon the examiner's interpretation of the claimed subject matter.

Regarding the applicant's statements, "Turning first to claims 27-30 that are not handled in the Office Action, given the prior prosecution of the application, it is clear that those claims should have been indicated to be allowable. The Examiner's clarification would be appreciated," please refer to the claims dated 5/13/2009 in which the applicant cancelled claims 29 and 30 and hence the cancelled claims were no longer rejected in the final office action dated 8/19/2009. The claim 28 has been indicated to be allowable but objected to as it depends upon claim 11. The claim 27 has been rejected in the final office action dated 8/19/2009, please see item 9 of page 3.

Note: Claims 8 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding the applicant's statements, "... but makes mere general statements to justify the positions taken ..." For clarification, the rejections are based on the evidence, i.e., applied prior arts and not over the statements; and if the applicant strongly believes that the rejected claims are indeed allowable over the rejections (that includes cited evidence and not mere statements), the MPEP 1201 clearly states: Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 USC 143). 35 U.S.C. 134 (a) states: An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

Regarding the limitations, comparing a current time with associated time ranges to select an appropriate one of a plurality of call destinations, please see the disclosure of Drozdewicz at page 1 which supports the usage of conferencing system for the comparing of the present time with the time ranges to select one of the call destination for setting up the conference using the web server and URL. Again, please note that the rejections are based on the cited evidence not on the examiner's statements as the examiner statements are to facilitate the applicant to realize the cited reference teachings/disclosure, i.e., further usage of the conferencing system, web server, URL, conferencing, Internet etc., and please refer to the office action dated 1/13/2009 of the prosecution history for further citation of the limitations of the entire claim.

Regarding the applicant's statements, Furthermore, if an examiner is relying on inferences from a reference to formulate some other kind of rejection, the applicant is entitled to know what they are and how they are derived; For clarification the citation of the case law, i.e., In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963), was because the applicant had simply stated Drozdewicz et al. is barely of any relevance to the subject-matter of the independent claims of this application beyond the fact that it relates to establishing telephone calls using a web-enabled conferencing system, etc.

Regarding the applicant's statements, "This piecemeal approach by the examiner is not helpful in expediting the prosecution of the application.", For clarification, Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Drozdewicz et al. 2002/0091769 (Hereinafter Drozdewicz), as per office action dated 1/13/2009. Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Jonsson 6,272,214 (Hereinafter Jonsson), as per office action dated 1/13/2009. Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Doganata 6,798,753 (Hereinafter Doganata), as per office action dated 1/13/2009. Hence, it is indeed not piecemeal approach at all. In fact, each rejection is separate, please see the office action dated 1/13/2009 for details.

Regarding the applicant's statements, "it is submitted that the Examiner should withdraw the finality of the Office Action and issue a proper Office Action, if the rejections are to be maintained.", are noted and as per the prosecution history each of the applicant's arguments has been addressed, and in particular the applicant has already been provided the citations and the components of the respective cited prior arts, for example, usage of the conferencing system, web server, URL, conferencing, Internet, etc. of the respective prior arts, please see the office action dated 1/13/2009 for further details and the applicant above-mentioned limitations under Drozdewicz has been addressed in this office action also. Regarding the applicant to agree or disagree with the examiner's provided citations/clarification for each limitations, i.e., in particular evidence of the applied reference, for the claimed limitations of the claims; mere arguments would not overcome the rejections, and hence, as per the MPEP, even after the applicant is provided citation of the prior arts and the applicant do not agree with it; the applicant always have option as per MPEP 1201 which clearly states: Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 USC 143). 35 U.S.C. 134 (a) states: An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.